IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 32379 of 2007(D)

PETITIONER:

V.N.SURESH, S/O.NARAYANAN, AGED 43
YEARS, RESIDING AT VATTATHARA HOUSE,
MANGATTUKARA, KANDASSANKADAVU, THRISSUR.

BY ADV. SRI.M.K.ABOOBACKER
SRI.MANSOOR.B.H.

RESPONDENTS:

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1. THE BRANCH MANAGER,
THE CATHOLIC SYRIAN BANK LTD.,
KANDASSAN KADAVU, THRISSUR.

2. THE DEPUTY ZONAL MANAGER,
(AUTHORISED OFFICER, SARFAESI ACT 02)
ZONAL OFFICE, CATHOLIC SYRIAN BANK,
THRISSUR.

BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 32379 OF 2007 L
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Dated this the 15th November, 2007

J U D G M E N T

Proceedings initiated against the petitioner under the Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 is under challenge. The only ground raised is that the Bank has already filed a Suit as O.S. No. 891 of 2006 before the Sub Court, Thrissur and therefore proceedings under the Act could not have been initiated.

2. This contention is devoid of any merit and it is settled law that even during the pendency of the civil suit the bank is at liberty to initiate proceedings.

3. At this stage, the petitioner seeks an instalment facility to pay off the liability. Though this is strongly opposed by counsel for the Bank, I am inclined to permit the petitioner to pay the dues in instalments to avoid coercive action against the

mortgaged property. This is all the more so for the reason that the loanee was his mother who is also no more. Since the petitioner is thus willing to discharge the liability to the Bank I dispose of this writ petition with the following directions:

1. That the petitioner shall within one month from today pay to the 1st respondent Bank, an amount of Rs.1 lakh.

2. The further amount that is due to the Bank shall be paid by the petitioner in five equal monthly instalments payable from the 15th of January, 2008 and the subsequent instalments on 15th of every succeeding month.

3. Subject to the above conditions, proceedings against the petitioner will stand deferred and if the petitioner commits default in paying any one of the instalments, the Bank will be entitled to proceed without further notice.

ANTONY DOMINIC
JUDGE

jan/-